

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

DEANNE WHATLEY CHAVEZ,

Plaintiff,

v.

Civ. No. 01-1314 RLP/WDS

THOMAS & BETTS CORPORATION, *et al.*,

Defendants.


MEMORANDUM OPINION AND ORDER

THIS MATTER comes before the court on Defendants' Motion to Amend Answer, in which the Defendants wish to add two affirmative defenses, *i.e.*, the exclusivity of the New Mexico Workers' Compensation Act as a defense to Plaintiff's state law tort claims; and comparative negligence to Plaintiff's negligent supervision and retention claim. Plaintiff does not object to the addition of these defenses and the Motion will be granted.

Plaintiff asserts in her Response [Doc. 105] that the addition of the comparative negligence defense creates an inherent conflict of interest due to all Defendants' being represented by the same counsel, citing *Johnson v. Board of County Commissioners*, 85 F.3d 489 (10th Cir. 1996) for that proposition. The court construes *Johnson* as limited to suits against municipal employees sued in their individual and official capacities.

IT IS THEREFORE ORDERED that Defendants' Motion to Amend to Add Two Affirmative Defenses [Doc. 13] is granted.

IT IS SO ORDERED.



Richard L. Puglisi
United States Magistrate Judge
(Sitting by designation)

FOR THE PLAINTIFF: Paul Kennedy, Esq.

FOR THE DEFENDANTS: Theresa W. Parrish, Esq.